

Senate Bill No. 1295

CHAPTER 388

An act to amend Section 123115 of the Health and Safety Code, relating to health.

[Approved by Governor August 26, 1997. Filed with
Secretary of State August 26, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1295, Maddy. Marriage, family, and child counselors and clinical social workers: patient access to health records.

Existing law, with some exceptions, guarantees patients and former patients of health care providers, as defined, and certain representatives of patients and former patients, the right to inspect health records. However, existing law provides that if a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient if, among other things, the health care provider permits inspection by, or provides copies of, the mental health records to a licensed physician and surgeon or licensed psychologist designated by request of the patient.

This bill would, for purposes of these provisions concerning mental health records, also require the health care provider to permit inspection by, or provide copies of the mental health records to, a licensed marriage, family, and child counselor or licensed clinical social worker designated by request of the patient. This bill would also require that the licensed physician and surgeon, licensed psychologist, licensed marriage, family, and child counselor, or licensed clinical social worker to whom these records are provided for inspection or copying not permit inspection or copying by the patient.

The people of the State of California do enact as follows:

SECTION 1. Section 123115 of the Health and Safety Code is amended to read:

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage, family, and child counselor, or licensed clinical social worker designated by request of the patient. The licensed physician and surgeon, licensed psychologist, licensed marriage, family, and child counselor, or licensed clinical social worker to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage, family, and child counselor, or licensed clinical social worker designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

